



Senate

General Assembly

File No. 610

January Session, 2003

Substitute Senate Bill No. 1059

Senate, May 1, 2003

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING STRUCTURED SETTLEMENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2003*) For the purposes of
2 sections 1 to 6, inclusive, of this act:

3 (1) "Annuity issuer" means an insurer that has issued a contract to
4 fund periodic payments under a structured settlement;

5 (2) "Dependents" include a payee's spouse and minor children and
6 all other persons for whom the payee is legally obligated to provide
7 support, including alimony;

8 (3) "Discounted present value" means the present value of future
9 payments determined by discounting the payments to the present
10 using the most recently published applicable federal rate for
11 determining the present value of an annuity, as issued by the United
12 States Internal Revenue Service;

13 (4) "Gross advance amount" means the sum payable to the payee or
14 for the payee's account as consideration for a transfer of structured
15 settlement payment rights before any reductions for transfer expenses
16 or other deductions to be made from such consideration;

17 (5) "Independent professional advice" means advice of an attorney,
18 certified public accountant, actuary or other licensed professional
19 adviser;

20 (6) "Interested parties" means, with respect to any structured
21 settlement, the payee, any beneficiary irrevocably designated under
22 the annuity contract to receive payments following the payee's death,
23 the annuity issuer, the structured settlement obligor and any other
24 party that has continuing rights or obligations under such structured
25 settlement;

26 (7) "Net advance amount" means the gross advance amount less the
27 aggregate amount of the actual and estimated transfer expenses
28 required to be disclosed under subdivision (5) of section 2 of this act;

29 (8) "Payee" means an individual who is receiving tax-free payments
30 under a structured settlement and proposes to transfer payment rights
31 under the structured settlement;

32 (9) "Periodic payments" includes both recurring payments and
33 scheduled future lump-sum payments;

34 (10) "Qualified assignment agreement" means an agreement
35 providing for a qualified assignment within the meaning of Section 130
36 of the Internal Revenue Code of 1986, or any subsequent
37 corresponding internal revenue code of the United States, as from time
38 to time amended;

39 (11) "Responsible administrative authority" means, with respect to a
40 structured settlement, any government authority vested by law with
41 exclusive jurisdiction over the settled claim resolved by such
42 structured settlement;

43 (12) "Settled claim" means the original tort claim or workers'
44 compensation claim resolved by a structured settlement;

45 (13) "Structured settlement" means an arrangement for periodic
46 payment of damages for personal injuries or sickness established by
47 settlement or judgment in resolution of a tort claim or for periodic
48 payments in settlement of a workers' compensation claim;

49 (14) "Structured settlement agreement" means the agreement,
50 judgment, stipulation or release embodying the terms of a structured
51 settlement;

52 (15) "Structured settlement obligor" means, with respect to any
53 structured settlement, the party that has the continuing obligation to
54 make periodic payments to the payee under a structured settlement
55 agreement or a qualified assignment agreement;

56 (16) "Structured settlement payment rights" means rights to receive
57 periodic payments under a structured settlement, whether from the
58 structured settlement obligor or the annuity issuer, where:

59 (A) The payee is domiciled in, or the domicile or principal place of
60 business of the structured settlement obligor or the annuity issuer is
61 located in, this state;

62 (B) The structured settlement agreement was approved by a court or
63 responsible administrative authority in this state; or

64 (C) The structured settlement agreement is expressly governed by
65 the laws of this state;

66 (17) "Terms of the structured settlement" include, with respect to
67 any structured settlement, the terms of the structured settlement
68 agreement, the annuity contract, any qualified assignment agreement,
69 and any order or other approval of any court or responsible
70 administrative authority or other government authority that
71 authorized or approved such structured settlement;

72 (18) "Transfer" means any sale, assignment, pledge, hypothecation,
73 or other alienation or encumbrance of structured settlement payment
74 rights made by a payee for consideration, but does not include the
75 creation or perfection of a security interest in structured settlement
76 payment rights under a blanket security agreement entered into with
77 an insured depository institution, in the absence of any action to
78 redirect the structured settlement payments to such insured depository
79 institution, or an agent or successor in interest thereof, or otherwise to
80 enforce such blanket security interest against the structured settlement
81 payment rights;

82 (19) "Transfer agreement" means the agreement providing for a
83 transfer of structured settlement payment rights;

84 (20) "Transfer expenses" means all expenses of a transfer that are
85 required under the transfer agreement to be paid by the payee or
86 deducted from the gross advance amount, including, but not limited
87 to, court filing fees, attorney's fees, escrow fees, lien recordation fees,
88 judgment and lien search fees, finders' fees, commissions and other
89 payments to a broker or other intermediary, but does not include
90 preexisting obligations of the payee payable for the payee's account
91 from the proceeds of a transfer; and

92 (21) "Transferee" means a party acquiring or proposing to acquire
93 structured settlement payment rights through a transfer.

94 Sec. 2. (NEW) (*Effective October 1, 2003*) Not less than three days
95 prior to the date on which the payee signs a transfer agreement, the
96 transferee shall provide to the payee a separate disclosure statement,
97 in boldface type at least fourteen points in size, setting forth:

98 (1) The amounts and due dates of the structured settlement
99 payments to be transferred;

100 (2) The aggregate amount of such payments;

101 (3) The discounted present value of the payments to be transferred,
102 which shall be identified as the "calculation of current value of the

103 transferred structured settlement payments under federal standards
104 for valuing annuities," and the amount of the applicable federal rate
105 used in calculating such discounted present value;

106 (4) The gross advance amount;

107 (5) An itemized listing of all applicable transfer expenses, other than
108 attorney's fees and related disbursements payable in connection with
109 the transferee's application for approval of the transfer, and the
110 transferee's best estimate of the amount of any such fees and
111 disbursements;

112 (6) The net advance amount;

113 (7) The amount of any penalties or liquidated damages payable by
114 the payee in the event of any breach of the transfer agreement by the
115 payee; and

116 (8) A statement that the payee has the right to cancel the transfer
117 agreement, without penalty or further obligation, not later than the
118 third business day after the date the agreement is signed by the payee.

119 Sec. 3. (NEW) (*Effective October 1, 2003*) No direct or indirect transfer
120 of structured settlement payment rights shall be effective and no
121 structured settlement obligor or annuity issuer shall be required to
122 make any payment directly or indirectly to any transferee of structured
123 settlement payment rights unless the transfer has been approved in
124 advance in a final court order or order of a responsible administrative
125 authority based on express findings by such court or responsible
126 administrative authority that:

127 (1) The transfer is in the best interest of the payee, taking into
128 account the welfare and support of the payee's dependents;

129 (2) The payee has been advised in writing by the transferee to seek
130 independent professional advice regarding the transfer and has either
131 received such advice or knowingly waived such advice in writing; and

132 (3) The transfer does not contravene any applicable statute or the
133 order of any court or other government authority.

134 Sec. 4. (NEW) (*Effective October 1, 2003*) Following a transfer of
135 structured settlement payment rights under sections 1 to 6, inclusive,
136 of this act:

137 (1) The structured settlement obligor and the annuity issuer shall, as
138 to all parties except the transferee, be discharged and released from
139 any and all liability for the transferred payments;

140 (2) The transferee shall be liable to the structured settlement obligor
141 and the annuity issuer:

142 (A) If the transfer contravenes the terms of the structured
143 settlement, for any taxes incurred by such parties as a consequence of
144 the transfer, and

145 (B) For any other liabilities or costs, including reasonable costs and
146 attorney's fees, arising from compliance by such parties with the order
147 of the court or responsible administrative authority or arising as a
148 consequence of the transferee's failure to comply with sections 1 to 6,
149 inclusive, of this act;

150 (3) Neither the structured settlement obligor nor the annuity issuer
151 may be required to divide any periodic payment between the payee
152 and any transferee or assignee or between two or more transferees or
153 assignees; and

154 (4) Any further transfer of structured settlement payment rights by
155 the payee may be made only after compliance with all of the
156 requirements of sections 1 to 6, inclusive, of this act.

157 Sec. 5. (NEW) (*Effective October 1, 2003*) (a) An application under
158 sections 1 to 6, inclusive, of this act for approval of a transfer of
159 structured settlement payment rights shall be made by the transferee
160 and may be brought in the superior court for the judicial district in
161 which the payee resides or in which the structured settlement obligor

162 or annuity issuer maintains its principal place of business or in the
163 superior court or before the responsible administrative authority that
164 approved the structured settlement agreement.

165 (b) Not less than twenty days prior to the scheduled hearing on any
166 application for approval of a transfer of structured settlement payment
167 rights under section 3 of this act, the transferee shall file with the court
168 or responsible administrative authority and serve on all interested
169 parties a notice of the proposed transfer and the application for its
170 approval, including with the notice:

171 (1) A copy of the transferee's application;

172 (2) A copy of the transfer agreement;

173 (3) A copy of the disclosure statement required under section 2 of
174 this act;

175 (4) A listing of each of the payee's dependents, together with each
176 dependent's age;

177 (5) Notification that any interested party is entitled to support,
178 oppose or otherwise respond to the transferee's application, either in
179 person or by counsel, by submitting written comments to the court or
180 responsible administrative authority or by participating in the hearing;
181 and

182 (6) Notification of the time and place of the hearing and notification
183 of the manner in which and the time by which written responses to the
184 application must be filed, which shall be not less than fifteen days after
185 service of the transferee's notice, in order to be considered by the court
186 or responsible administrative authority.

187 Sec. 6. (NEW) (*Effective October 1, 2003*) (a) The provisions of sections
188 1 to 6, inclusive, of this act may not be waived by any payee.

189 (b) Any transfer agreement entered into on or after the effective date
190 of this section by a payee who resides in this state shall provide that

191 disputes under such transfer agreement, including any claim that the
192 payee has breached the agreement, shall be determined in and under
193 the laws of this state. No such transfer agreement shall authorize the
194 transferee or any other party to confess judgment or consent to entry of
195 judgment against the payee.

196 (c) No transfer of structured settlement payment rights shall extend
197 to any payments that are life-contingent unless, prior to the date on
198 which the payee signs the transfer agreement, the transferee has
199 established and agreed to maintain procedures reasonably satisfactory
200 to the structured settlement obligor and the annuity issuer for:

201 (1) Periodically confirming the payee's survival; and

202 (2) Giving the structured settlement obligor and the annuity issuer
203 prompt written notice in the event of the payee's death.

204 (d) No payee who proposes to make a transfer of structured
205 settlement payment rights shall incur any penalty, forfeit any
206 application fee or other payment or otherwise incur any liability to the
207 proposed transferee or any assignee based on any failure of such
208 transfer to satisfy the conditions of sections 1 to 6, inclusive, of this act.

209 (e) Nothing contained in sections 1 to 6, inclusive, of this act shall be
210 construed to authorize any transfer of structured settlement payment
211 rights in contravention of any law or to imply that any transfer under a
212 transfer agreement entered into prior to the effective date of this
213 section is valid or invalid.

214 (f) Compliance with the requirements set forth in section 2 of this act
215 and fulfillment of the conditions set forth in section 3 of this act shall
216 be solely the responsibility of the transferee in any transfer of
217 structured settlement payment rights, and neither the structured
218 settlement obligor nor the annuity issuer shall bear any responsibility
219 for, or any liability arising from, noncompliance with such
220 requirements or failure to fulfill such conditions.

221 (g) The provisions of sections 1 to 6, inclusive, of this act shall be

222 applicable to transfer agreements executed on and after October 1,
223 2003.

224 Sec. 7. Section 52-225f of the general statutes is repealed and the
225 following is substituted in lieu thereof (*Effective October 1, 2003*):

226 (a) For purposes of this section:

227 (1) "Annuity issuer" means an insurer that has issued any insurance
228 contract used to fund periodic payments under a structured
229 settlement;

230 (2) "Expenses" means all broker's commissions, service charges,
231 application or processing fees, closing costs, filing or administrative
232 charges, legal fees, notary fees and other commissions, fees, costs and
233 charges payable by the payee in connection with the proposed transfer
234 or deductible from the gross consideration that would be paid to the
235 payee in connection with the transfer;

236 (3) "Interested parties" means, with respect to any structured
237 settlement, the payee, any beneficiary designated to receive payments
238 following the payee's death or, if the designated beneficiary is a minor,
239 the designated beneficiary's parent or guardian, the annuity issuer and
240 the structured settlement obligor;

241 (4) "Payee" means an individual who is receiving payments under a
242 structured settlement and proposes to make a transfer of payment
243 rights thereunder;

244 (5) "Structured settlement" means an arrangement for periodic
245 payment of damages established by settlement or judgment in
246 resolution of a tort claim or for periodic payments in settlement of a
247 workers' compensation claim;

248 (6) "Structured settlement obligor" means, with respect to any
249 structured settlement, the party that has the continuing periodic
250 payment obligation to the payee under a structured settlement
251 agreement or under an agreement providing for a qualified

252 assignment within the meaning of Section 130 of the Internal Revenue
253 Code of 1986, or any subsequent corresponding internal revenue code
254 of the United States, as from time to time amended;

255 (7) "Structured settlement payment rights" means rights to receive
256 periodic payments, including lump sum payments, under a structured
257 settlement, whether from the settlement obligor or the annuity issuer;

258 (8) "Transfer" means any sale, assignment, pledge, hypothecation or
259 other form of alienation or encumbrance made for consideration;

260 (9) "Transfer agreement" means the agreement providing for
261 transfer of structured settlement payment rights from a payee to a
262 transferee; and

263 (10) "Transferee" means any person receiving structured settlement
264 payment rights resulting from a transfer.

265 (b) No transfer of structured settlement payment rights, either
266 directly or indirectly, shall be effective by any payee domiciled in this
267 state or by any payee entitled to receive payments under a structured
268 settlement funded by an insurance contract issued by an insurer
269 domiciled in this state or owned by an insurer or corporation
270 domiciled in this state and no structured settlement obligor or annuity
271 issuer shall be required to make any payment directly or indirectly to
272 any transferee of any such transfer unless (1) not less than ten days
273 prior to the date on which the payee entered into the transfer
274 agreement, the transferee provided to the payee a written disclosure
275 statement setting forth (A) the amounts and due dates of the
276 structured settlement payments to be transferred; (B) the aggregate
277 amount of the payments; (C) the gross amount of all expenses; (D) the
278 amount payable to the payee, net of all expenses, in exchange for the
279 payments; (E) the discounted present value of all structured settlement
280 payments to be transferred and the discount rate used in determining
281 such discounted present value; and (F) a statement that the payee may
282 be subject to adverse federal and state income tax consequences as a
283 result of the proposed transfer; and (2) such transfer has been

284 approved by a court pursuant to subsection (c) of this section.

285 (c) (1) Prior to any transfer, the payee entitled to receive payments
286 under such structured settlement shall commence a declaratory
287 judgment action under section 52-29 for a determination as to whether
288 the transfer of such structured settlement payment rights is in the best
289 interests of the payee and is fair and reasonable to all interested parties
290 under all of the circumstances then existing. The annuity issuer and
291 the structured settlement obligor shall be made parties to such action.
292 If the court determines, after hearing, that such transfer should be
293 allowed, it shall approve such transfer upon such terms and conditions
294 as it deems appropriate.

295 (2) The court in which the original action was or could have been
296 filed or the court which has jurisdiction where the applicant resides
297 shall have jurisdiction over any such action.

298 (3) The payee shall cause notice of the action to be served on all
299 interested parties by a proper officer or other person lawfully
300 empowered to make service. The notice of the action shall include (A)
301 a copy of the payee's application to the court for approval of the
302 transfer, (B) a copy of the disclosure statement required under
303 subsection (b) of this section and (C) notice of the hearing.

304 (4) The payee may seek an order setting the deadline for the filing of
305 written objections. The payee shall give notice to all interested parties
306 of the deadline for filing objections whether such deadline has been
307 established by court order or by operation of the general statutes or
308 court rule. Notice shall be mailed to all interested parties at least ten
309 days before such deadline.

310 (5) The court shall hold a hearing on the application. The payee shall
311 give notice of the hearing to all interested parties.

312 (d) Nothing contained in this section shall imply that any transfer
313 under a transfer agreement dated prior to October 1, 1998, is binding
314 upon any interested party or that any annuity issuer or structured

315 settlement obligor is under any obligation to make transferred
316 payments to the transferee of any such prior transfer.

317 (e) The provisions of this section may not be waived.

318 (f) The provisions of this section shall be applicable to transfer
319 agreements executed on and after October 1, 1998, and prior to October
320 1, 2003.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>
Sec. 5	<i>October 1, 2003</i>
Sec. 6	<i>October 1, 2003</i>
Sec. 7	<i>October 1, 2003</i>

Statement of Legislative Commissioners:

The language in the effective date provision of section 4 concerning the applicability of the section was deleted as duplicative of the general applicability provision in section 6 (g).

JUD *Joint Favorable Subst.-LCO*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Judicial Dept.	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill makes changes that affect the procedures involving structured settlements among private parties and does not result in a fiscal impact to the state.

OLR Bill Analysis

sSB 1059

AN ACT CONCERNING STRUCTURED SETTLEMENTS**SUMMARY:**

This bill makes a number of changes to the law on the transfer of structured settlement payments. A structured settlement is an arrangement for periodic payment of damages by a settlement or judgment in a personal injury or workers' compensation claim. The payee is the person who receives the payments and the obligor is the person obligated to make the periodic payments. In a transfer of structured settlement payments, the payee gives the right to receive the payments to a transferee.

Under current law, the transferee must make certain disclosures to the payee before entering a transfer agreement and a court must approve the transfer. The bill:

1. changes the disclosure requirements and requires them to be made at least three, rather than 10, days before entering a transfer agreement;
2. requires the transferee, rather than the payee, to seek approval of the transfer and give notice to interested parties;
3. allows approval by a responsible administrative authority, as well as a court;
4. expands the types of transfers subject to the approval requirements;
5. includes more specific requirements for approval;
6. specifies certain consequences of a transfer;
7. alters the jurisdiction and notice requirements for the hearing;
8. includes rules about disputes, life-contingent payments, penalties, and liability; and

9. changes some definitions.

The bill's provisions apply to transfer agreements executed after September 30, 2003. The bill does not authorize a transfer that violates any law and does not imply that any transfer under an agreement before October 1, 2003 is valid or invalid.

As under current law, these requirements for valid transfers cannot be waived.

EFFECTIVE DATE: October 1, 2003

DISCLOSURE NOTICE

By law, the transferee must make certain disclosures to the payee before entering an agreement. The bill requires the payee to receive this disclosure statement at least three, rather than 10, days before entering a transfer agreement. The bill specifies that the disclosure must be a separate statement in boldface type at least 14 points in size.

As under current law, the disclosure statement must include (1) the amount and due dates of the structured settlement payments transferred and (2) the aggregate amount of payments.

The bill changes three requirements.

1. Instead of requiring disclosure of the gross amount of expenses, the bill requires an itemized listing of transfer expenses, other than attorney's fees and related disbursements payable in connection with the transferee's application for approval of the transfer and the transferee's best estimate of the amount of the fees and disbursements.
2. Instead of requiring disclosure of the amount payable to the payee, net of expenses, in exchange for payment the bill requires (1) the gross advance amount (the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before reductions for transfer expenses or other deductions) and (2) the net advance amount (the gross advance amount minus the aggregate amount of actual and estimated transfer expenses required to be disclosed).

3. As under current law, the bill requires disclosure of the discounted present value of payments to be transferred. The bill defines discounted present value as the present value of future payments determined by discounting the payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the IRS. The bill requires this to be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities" and the disclosure must state the applicable federal rate used in the calculation. Current law requires disclosure of the discount rate used in that calculation but does not specify use of a particular rate.

The bill also requires (1) disclosure of the amount of any penalties or liquidated damages payable by the payee if he breaches the transfer agreement and (2) a statement that the payee can cancel the transfer agreement without penalty or obligation within three business days of signing the agreement.

The bill deletes a requirement that the disclosure state that there may be adverse tax consequences as a result of the proposed transfer.

APPROVAL OF TRANSFER

Under current law, a court must approve a transfer of structured settlement payment rights and the obligor or annuity issuer (an insurer who issued a contract to fund periodic payments under the structured settlement) is not required to pay a transferee unless a court approves the transfer. The bill also allows a responsible administrative authority to approve a transfer. It defines a responsible administrative authority as a government authority with exclusive jurisdiction over the settled claim (the original tort claim or workers' compensation claim) resolved by the structured settlement.

As under current law, approval of the transfer is required when the payee is domiciled in Connecticut. The bill alters the other provisions. Under current law, approval is also required when a payee is entitled to receive payments under a structured settlement funded by an insurance contract issued by a insurer domiciled in Connecticut or owned by an insurer or corporation domiciled in Connecticut. The bill instead applies when (1) the structured settlement obligor or the

annuity issuer is domiciled or has its principal place of business in Connecticut; (2) a Connecticut court or responsible administrative authority approved the structured settlement agreement; or (3) Connecticut law expressly governs the structured settlement agreement.

Under current law, the court must determine if the transfer of the structured settlement payment rights is in the payee's best interest and is fair and reasonable to all interested parties under the existing circumstances. The bill instead requires approval by a court or administrative authority based on the following express findings:

1. the transfer is in the payee's best interest, taking into account his dependent's welfare and support (this includes a payee's spouse and minor children and other people the payee is legally obligated to provide support for, including alimony);
2. the transferee advised the payee in writing to seek independent professional advice (advice of an attorney, certified public accountant, actuary, or other licensed professional adviser) about the transfer and the payee either received it or knowingly waived in writing his right to get advice; and
3. the transfer does not violate any statute or court or government order.

The bill does not specify that a court may approve the transfer on terms and conditions it deems appropriate, as under current law.

APPLICATION FOR TRANSFER

Jurisdiction

Under current law, jurisdiction for approving the transfer is with the court where (1) the original action was filed or could have been filed or (2) the payee resides. The bill provides that jurisdiction is with (1) the Superior Court in the judicial district where the payee resides or the structured settlement obligor or annuity issuer has its principal place of business or (2) the administrative agency that approved the structured settlement agreement.

Notice of Hearing

As under current law, a notice of a hearing must be served on all interested parties. The bill requires the transferee, rather than payee, to give notice. The bill also requires the notice at least 20 days before the hearing.

The bill expands the definition of interested parties. As under current law, an interested party is the payee, a beneficiary designated to receive payments on the payee's death (the bill specifies that he must be irrevocably designated under the annuity contract), the annuity issuer, and the structured settlement obligor. The bill deletes a provision that, when the designated beneficiary is a minor, the minor's parent or guardian is an interested party. But it adds that any other party with continuing rights and obligations under the structured settlement is also an interested party.

As under current law, the notice must include a copy of the application for approval and the disclosure statement. The bill also adds requirements that the notice include (1) a copy of the transfer agreement; (2) a listing of each of the payee's dependents and their ages; and (3) notice that any interested party can support, oppose, or otherwise respond to the application in person, by counsel, by written comments to the court or authority, or by participating in the hearing.

Both the bill and current law require notice of the hearing. But the bill specifies that the notice must contain the time and place of the hearing and the manner in which written responses to the application can be filed (which must be at least 15 days after serving the notice). Current law authorizes the payee to seek an order setting the deadline for filing written objections; requires him to notify all interested parties of the deadline; and requires notice to be mailed at least 10 days before the deadline.

EFFECT OF TRANSFER

The bill specifies that, after a transfer of structured settlement payment rights:

1. the structured settlement obligor and the annuity issuer are discharged and released from liability for the transferred payment as to all parties except the transferee;

2. the transferee is liable to the structured settlement obligor and annuity issuer for (a) any taxes incurred because of the transfer if it violates the terms of the structured settlement and (b) other liabilities or costs, including reasonable costs and attorney's fees, for complying with the court or agency order or from the transferee's failure to comply with the bill's provisions;
3. the structured settlement obligor and annuity issuer cannot be required to divide any periodic payment between the payee and a transferee or assignee or between two or more of them; and
4. any further transfer of structured settlement payment rights by the payee must comply with the bill's provisions.

DISPUTES

Under the bill, transfer agreements entered into after September 30, 2003 by a payee residing in Connecticut must provide that disputes about the agreement are determined in Connecticut and under Connecticut law. This includes claims that the payee breached the agreement. The bill prohibits transfer agreements from authorizing the transferee or another party from confessing judgment or consenting to judgment against the payee. (In a confession of judgment, a person agrees beforehand to the entry of a judgment against him if a specified event occurs or fails to occur, such as making a required payment.)

PAYMENTS THAT ARE LIFE-CONTINGENT

The bill prohibits transfers of structured settlement payment rights from including payments that are life-contingent unless the transferee, before the payee signs the transfer agreement, establishes and agrees to maintain procedures reasonably satisfactory to the structured settlement obligor and annuity issuer for (1) periodically confirming the payee's survival and (2) giving the structured settlement obligor and annuity issuer prompt written notice of the payee's death.

OTHER PROVISIONS

Under the bill, a payee who proposes to transfer structured settlement payment rights is not subject to any penalty, forfeiture of application fees, other payments, or liability to a proposed transferee or assignee

for a failure of the transfer to satisfy the bill's conditions.

The bill makes the transferee solely responsible for complying with its disclosure and approval requirements and the structured settlement obligor and annuity issuer are not responsible or liable for noncompliance or failure to fulfill any conditions.

DEFINITIONS

The bill adds definitions for:

1. "periodic payments," which include both recurring payments and scheduled future lump-sum payments;
2. "qualified assignment agreement," which is an agreement for a qualified assignment within the meaning of federal tax law (which qualifies for certain tax benefits);
3. "structured settlement agreement," which is the agreement, judgment, stipulation, or release embodying the structured settlement's terms; and
4. "terms of the structured settlement," which include the terms of the agreement; the annuity contract; any qualified assignment agreement; and any order or approval of a court, responsible administrative authority, or the government authority that authorized or approved the structured settlement.

As under current law, transfer means sale, assignment, pledge, hypothecation (pledging as security or collateral), alienation, or encumbrance of structured settlement payment rights made by a payee for consideration. The bill specifies that this does not include creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to the insured depository, or their agent or successor, or otherwise to enforce a blanket security interest against the structured settlement payment rights.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Report

Yea 41 Nay 0